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Restated Certificate of Incorporation

PH-32

of

HI-TECH PHARMACAL CO., INC.

PH-32

Under Section 807 of the Business Corporation Law

1. The name of the Corporation is:

HI-TECH PHARMACAL CO., INC.

2. The certificate of incorporation of the Corporation was filed by the Department of State on April 29, 1983; a Certificate of Amendment of the Certificate of incorporation was filed on January 28, 1992; and a restated certificate of incorporation was filed on May 7, 1992.

3. The certificate of incorporation is hereby amended or changed to effect one or more of the amendments or changes authorized by the Business Corporation Law, to wit: to increase the aggregate number of shares which the Corporation shall have the authority to issue by authorizing three million (3,000,000) additional shares of the par value \$.01 each and to designate the same as Preferred Shares and to designate the presently authorized shares as Common shares.

4. To accomplish the foregoing amendment, Paragraph 4 of the Certificate of Incorporation of the Corporation, relating to the aggregate number of shares which the Corporation is authorized to issue and the par value thereof is hereby amended to read as set forth in the same numbered article of the Certificate of Incorporation of the Corporation as hereinafter restated.

5. The restatement of the Certificate of Incorporation of the Corporation herein provided for was authorized by the Board of Directors followed by the vote of the holders of at least a majority of all the outstanding shares of the Corporation entitled to vote on the restatement of the Certificate of Incorporation.

6. The text of the Certificate of Incorporation of the Corporation is hereby restated as further amended or changed herein to read as follows:

CERTIFICATE OF INCORPORATION

OF

HI-TECH PHARMACAL CO., INC.

Under Section 402 of the Business Corporation Law

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1. The name of the Corporation is HI-TECH PHARMACAL CO., INC.

2. The purposes for which the Corporation is formed are:

a. To buy, sell, manufacture, import, export, warehouse, distribute, and otherwise deal in pharmaceutical products, toiletries and merchandise of every kind, nature and description.

b. To purchase or otherwise acquire, hold, own, maintain, improve, operate, mortgage, sell, convey or otherwise dispose of, and to lease real and personal property of every class and description in any of the states, districts or territories of the United States and in any foreign countries, subject to the laws of such State, district, territory or country.

c. To purchase or otherwise acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names.

d. For its corporate purposes on any terms and without limit, to borrow or receive money, and from time to time make, accept, endorse, execute and issue bonds, debentures, promissory notes, drafts, bills of exchange and other obligations of the corporation, and to secure the payment of any such obligation by mortgage, pledge, deed, indenture, agreement or other instrument of trust, or by other lien upon assignment of or agreement in regard to all or any part of the property rights or privileges of the corporation wherever situated, whether now owned or hereafter to be acquired.

e. To purchase or otherwise acquire, hold, cancel, reissue, sell, resell, pledge, transfer and otherwise dispose of shares of its own capital stock, so far as may be permitted by law.

f. To purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of shares of capital stock of, or bonds, securities or evidences of indebtedness created by any other corporation or corporations organized under the laws of this state or any other state.

country, nation or government, and while the owner thereof to exercise all the rights powers and privileges of ownership.

g. To make, enter into, perform and carry out contracts, agreements and obligations of every sort and kind, which may be necessary or convenient for the business of this company or business of a similar nature, with any person, firm, corporation, private, public or municipal body politic under the government of the United States of America or any state, territory, possession or colony thereof, or any foreign government, so far as, and to the extent that, the same may be done and performed by corporations organized under the New York Business Corporation Law.

h. To acquire and pay for in cash, stock or bonds of this corporation or otherwise, the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

i. To do all and everything necessary or convenient for the accomplishment of the objects or purposes herein enumerated, or necessary, incidental or appropriate to the protection of the Corporation.

j. In general, to carry on any other similar business in connection with the foregoing, and to have and exercise all the powers conferred from time to time by the laws of the New York Business Corporation Law, and to do any or all of the things hereinbefore set forth to the same extent as natural persons might or could do.

k. The foregoing clauses of paragraph "2" shall be construed as purposes, objects and powers, and the matters expressed in each clause shall not be limited in any way, except as otherwise expressly provided by reference to or inference from the terms of any of the clauses (or any other matter within the same clause), but shall be regarded as independent purposes, objects and powers, and the enumeration of specified purposes, objects and powers shall not be construed to exclude, limit or restrict in any manner the meaning of the general terms of such clauses, or the general powers of the Corporation, nor shall the expression of one thing be deemed to exclude another, although it be of like nature, not expressed.

3. The office of the Corporation is to be located in the County of Suffolk, State of New York.

4. The aggregate number of shares of all classes of capital stock which the Corporation shall have the authority to issue is Thirteen Million (13,000,000), which is divided into two classes as follows:

Three Million (3,000,000) shares of Preferred Stock (Preferred Stock), par value \$.01 per share, and

Ten Million (10,000,000) shares of Common Stock (Common Stock), par value \$.01 per share.

The designations, voting powers, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions of the above classes of stock are as follows:

### I. Preferred Stock

#### (1) Issuance of Series.

The shares of Series Preferred Stock may be issued in one or more series from time to time. All shares of any one series of Preferred Stock will be identical with each other in all respects except that shares of one series issued at different times may differ as to dates from which dividends thereon may be cumulative. All series will rank equally and be identical in all respects, except as permitted by the following provisions of paragraph 2 of this Division I.

#### (2) Authority of the Board with Respect to Series.

The Board of Directors is authorized, at any time and from time to time, to provide for the issuance of the shares of Series Preferred Stock, in one or more series with such designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof as are stated and expressed in the resolution or resolutions providing for the issue thereof adopted by the Board of Directors and as are not stated and expressed in this Certificate of Incorporation or any amendment hereto including, but not limited to, determination of any of the following:

(i) The number of shares constituting that series and the distinctive designation of that series;

(ii) The dividend rate or rates on the shares of that series, whether dividends shall be cumulative, and, if so from which date or dates, the payment date or dates for dividends and the relative rights of priority, if any, of payment of dividends on shares of that series;

(iii) Whether that series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;

(iv) Whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for

adjustment of the conversion rate in such events as the Board of Directors shall determine;

(v) Whether or not the shares of that series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(vi) Whether that series shall have a sinking or retirement fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking or retirement fund;

(vii) The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Company, and the relative rights of priority, if any, of payment of shares of that series;

(viii) Any other preferences, privileges and powers, and relative participating, optional or other special rights, and qualifications, limitations or restrictions of a series as the Board of Directors may deem advisable and are not inconsistent with the provisions of this Certificate of Incorporation.

### (3) Dividends.

Dividends on outstanding shares of Series Preferred Stock shall be paid or declared and set apart for payment in accordance with their respective preferential and relative rights before any dividends shall be paid or declared and set apart for payment on the outstanding shares of Common Stock with respect to the same dividend period.

### (4) Liquidation.

If upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, the assets available for distribution to holders of shares of Preferred Stock of all series shall be insufficient to pay such holders the full preferential amount to which they are entitled, then such assets shall be distributed ratably among the shares of all series of Preferred Stock in accordance with the respective preferential and relative amounts (including unpaid cumulative dividends, if any) payable with respect thereto.

### (5) Recquired Shares.

Shares of Preferred Stock which have been issued and reacquired in any manner by the Company (excluding, until the Company elects to retire them, shares which are held as treasury shares but including shares redeemed, shares purchased

and retired, and shares which have been converted into shares of Common Stock) will have the status of authorized and unissued shares of Preferred Stock and may be reissued.

(6) Voting Rights.

Unless and except to the extent otherwise required by law or provided in the resolution or resolutions of the Board of Directors creating any series of Preferred Stock pursuant to this Division I, the holders of the Preferred Stock shall have no voting power with respect to any matter whatsoever.

**II. Common Stock**

(1) Dividends.

Subject to the preferential rights of the Preferred Stock, the holders of the Common Stock are entitled to receive, to the extent permitted by law, such dividends as may be declared from time to time by the Board of Directors.

(2) Liquidation.

In the event of the voluntary or involuntary liquidation, dissolution, distribution of assets or winding up of the Company, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of Preferred Stock, holders of Common Stock shall be entitled to receive all of the remaining assets of the Company of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively. The Board of Directors may distribute in kind to the holders of Common Stock such remaining assets of the Company or may sell, transfer or otherwise dispose of all or any part of such remaining assets to any other corporation, trust or other entity and receive payment therefor in cash, stock or obligations of such other corporation, trust or other entity, or any combination thereof, and may sell all or any part of the consideration so received and distribute any balance thereof in kind to holders of Common Stock. The merger or consolidation of the Company into or with any other corporation or the merger of any other corporation into it, or any purchase or redemption of shares of stock of the Company of any class, shall not be deemed to be a dissolution, liquidation or winding up of the Company for the purposes of this paragraph.

(3) Voting Rights.

Except as may be otherwise required by law or this Certificate of Incorporation, each holder of Common Stock has one vote in respect of each share of stock held by him of record on the books of the Company on all matters voted upon by the shareholders.

5. The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is in care of:

Tashlik, Kreutzer & Goldwyn P.C.  
833 Northern Boulevard  
Great Neck, New York 11021

6. No Director of the Corporation shall be personally liable to the Corporation or its shareholders for damages for any breach of duty in such capacity, provided that nothing contained in this Paragraph shall eliminate or limit:

a. the liability of any Director if a judgment or other final adjudication adverse to him establishes that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled or that his acts violated Section 719 of the New York Business Corporation Law;

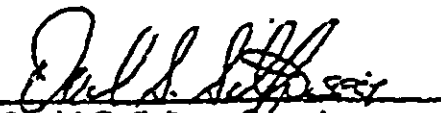
b. the liability of any Director for any act or omission prior to the adoption of the amendment including this paragraph in the Certificate of Incorporation of the Corporation; and

c. the Corporation's right to maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the New York Business Corporation Law."

IN WITNESS WHEREOF, we have subscribed this document on the date set forth below and do hereby affirm, under the penalties of perjury, that the statements contained herein have been examined by us and are true and correct.

Dated: October 26, 1994

  
Bernard Seltzer, President

  
David S. Seltzer, Secretary

